

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ARTIE McCLOUD	:	4:CV-04-0943
Plaintiff	:	(Judge McClure)
v.	:	(Magistrate Judge Mannion)
SUPT. SHANNON, et al.,	:	
Defendants	:	

O R D E R

August 31, 2005

BACKGROUND:

On April 29, 2004, the plaintiff, a former inmate at the State Correctional Institution, Frackville, Pennsylvania, filed a complaint in which he alleged violations of his constitutional rights pursuant to 42 U.S.C. § 1983.

The case was initially referred to United States Magistrate Judge Malachy E. Mannion.

On June 29, 2004, plaintiff filed a document captioned “Amended and Supplemental Pleadings” which Magistrate Judge Mannion, by order of July 6, 2004, construed as an Amended Complaint. On September 17, 2004, the three named defendants filed a motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6).

The motion was eventually fully briefed.

On August 12, 2005, Magistrate Judge Mannion issued his report and recommendation in which he recommended that the motion to dismiss plaintiff's complaint filed on behalf of defendants Shannon, Searfoss and Miller be granted.

Plaintiff has filed no objections to the report and recommendation.

The court will accept the report and recommendation for the reasons set forth therein, and will dismiss the amended complaint with prejudice as against defendants Shannon, Searfoss and Miller.

The court will also dismiss all claims as against the John Doe defendants, without prejudice, for failure to prosecute, as plaintiff has had sufficient opportunity since the initiation of this action to identify the John Doe defendants.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The report and recommendation of United States Magistrate Judge Malachy E. Mannion filed August 12, 2005 (rec. doc. no. 37) is approved and accepted for the reasons therein set forth.
2. The motion to dismiss filed on behalf of defendants Shannon, Searfoss and Miller (rec. doc. no. 20, filed September 17, 2004) is granted.:
3. The amended complaint is dismissed with prejudice as against

defendants Shannon, Searfoss and Miller.

4. The complaint is dismissed, without prejudice, as against the three John Doe defendants, for failure to prosecute under and pursuant to Fed.R.Civ.P. 41(b).

5. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge